

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO

In re:

PITTSBURGH-CANFIELD CORPORATION,
et al.,

Debtors

Chapter 11

Case Nos. 00-43394 through
00-43402

Jointly Administered

William T. Bodoh
United States Bankruptcy Judge

**SETTLEMENT AGREEMENT RESOLVING UNSECURED CLAIMS OF THE
UNITED STATES OF AMERICA, ON BEHALF OF THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY, AGAINST THE
WHEELING-PITTSBURGH CORPORATION, REGARDING THE
BRESLUBE-PENN SUPERFUND AND FOUR COUNTY LANDFILL SITES**

This Agreement is made and entered into by and between Wheeling-Pittsburgh Corporation, ("WPC"), Debtor and Debtor in Possession in Case Nos. 00-43394 to 00-43402 (the "Bankruptcy Proceeding") pending in the United States Bankruptcy Court for the Northern District of Ohio ("Bankruptcy Court"), and the United States of America, on behalf of the United States Environmental Protection Agency ("US EPA").

WHEREAS, on November 16, 2000 (the "Petition Date"), WPC and eight of its affiliates¹ filed voluntary petitions for reorganization under Chapter 11 of Title 11 of the United States Code ("Bankruptcy Code");

WHEREAS, the United States filed Claim No. 2286 against WPC in the Bankruptcy Proceeding;

WHEREAS, the Parties hereto desire to fully, finally and forever compromise, settle and resolve all of the issues and disputes arising out of Claim No. 2286.

¹ In addition to Pittsburgh-Canfield Corporation, the debtors are Wheeling-Pittsburgh Corporation, Wheeling-Pittsburgh Steel Corporation, Consumers Mining Company, Wheeling-Empire Company, Mingo Oxygen Company, WP Steel Venture Corp., W-P Coal Company and Monessen Southwestern Railway Company. On July 5, 2001, in connection with the sale of Pittsburgh-Canfield Corporation's assets to a subsidiary of WHX Corporation, Pittsburgh-Canfield Corporation changed its name to PCC Survivor Corporation.

WHEREFORE, in consideration of the mutual covenants and agreements of the parties, it is hereby agreed as follows:

1. Amount and Classification of Claim. The United States, on behalf of US EPA, shall have an allowed general unsecured claim ("EPA Allowed Claim") against WPC in the amount of \$1,550,000. The EPA Allowed Claim shall be classified as a Class 5 claim in the Bankruptcy Proceeding. The EPA Allowed Claim shall receive the same treatment under Debtors' Third Amended Joint Plan of Reorganization ("Plan"), without discrimination, as other allowed Class 5 claims with all attendant rights provided by the Bankruptcy Code. In no event shall the US EPA Allowed Claim be subordinated pursuant to any provision of the Plan, any revision or modification thereof, or any order confirming the Plan or any revision or modification thereof, to any other allowed Class 5 general unsecured claim.

2. Allocation of Claim.

a. The EPA Allowed Claim shall be allocated as follows: \$1,500,000 in satisfaction of the claim of the United States, pursuant to Section 107(a)(3) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C § 9607(a)(3), arising from WPC's alleged arrangement for disposal or treatment of hazardous substances at the Breslube-Penn Superfund Site in Coraopolis, Pennsylvania; and \$50,000 in satisfaction of the claim of the United States arising from WPC's alleged arrangement for disposal or treatment of hazardous substances at the Four County Landfill Site in Fulton County, Indiana.

b. Some or all of the distribution received by US EPA for the Breslube-Penn Site claim will be deposited in a site-specific special account within the EPA Hazardous Substances Superfund to be retained and used to conduct or finance response actions at or in connection with the Breslube-Penn Site, or to be deposited by US EPA into the EPA Hazardous Substance Superfund. The amount of the actual cash received and net cash realized from other distributions or considerations on account of the Debtor's payment of the allowed claim amount for Breslube-Penn (and only that amount) shall be credited by US EPA to the Breslube-Penn Site account.

c. The distribution received by US EPA for the Four County Landfill Site will be deposited by US EPA into the EPA Hazardous Substance Superfund.

3. Release. Subject to paragraphs 1 and 4 herein, the United States waives and releases the claims set out in Claim No. 2286 against the Debtors.

4. Lodging of Settlement Agreement and Bankruptcy Court Approval.

a. This Settlement Agreement shall be subject to submission of a Stipulation and entry of an Order allowing Claim No. 2286 in the amount of \$1,550,000 in Class 5. Pursuant to standard Department of Justice procedures for court entry of certain settlements of environmental claims of the United States, this Settlement Agreement shall be made available for public comment by publication by the United States of notice of the Settlement Agreement in the Federal Register. The public comment period will extend for thirty (30) days following publication of the Federal Register notice. The United States reserves the right to withdraw from, or withhold its consent to, this Settlement Agreement if the public comments received regarding the Settlement Agreement disclose facts or considerations which indicate that the Settlement Agreement is inappropriate, or improper, or inadequate.

b. If the United States, following closure of the public comment period and evaluation of any comments received regarding the Settlement Agreement, determines to proceed with this Settlement Agreement, the United States shall notify WPC in writing of this decision, whereupon WPC's successor, the new Wheeling-Pittsburgh Steel Corporation ("new WPSC") will promptly submit the Stipulation and Order described in Paragraph 4.a. New WPSC shall attach to the Stipulation the United States' statement that it received no comments from the public regarding the Settlement Agreement or, if comments were received, the United States' statement in support of the Stipulation and Order, which shall contain points and authorities supporting approval of the Stipulation.

c. If the United States, following closure of the public comment period and evaluation of any comments received regarding the Settlement Agreement, determines not to proceed with this Settlement Agreement, then this Settlement Agreement shall have no force or effect, except

for the remainder of this paragraph 4.c, which shall remain effective. The United States recognizes, however, that Debtors' Plan has been consummated and that the distribution to all Class 5 creditors of WPC except the United States has now occurred. Given these circumstances, the United States will not seek disgorgement of funds or other distributions from other creditors of WPC and recognizes that WPC has no intention of seeking approval from the Bankruptcy Court of any claim on behalf of the United States higher than \$1,550,000 in this matter.

d. This Settlement Agreement is subject to the Bankruptcy Court's approval by Stipulation and Order as set forth in Paragraph 4.a above and has no force or effect until the Order is entered.

e. Should the United States withdraw from this Settlement Agreement, or should the Bankruptcy Court decline to enter the Stipulation referred to in Paragraph 4.a above, this Settlement Agreement shall be null and void and the terms of the Settlement Agreement may not be used as evidence in any litigation between the parties, except for the provisions of Paragraph 4.c, above.

5. Covenants Not to Sue

a. In consideration of the payments or distributions that will be made by WPC under the terms of this Settlement Agreement, and except as provided in paragraph 5.b., the United States covenants not to bring a civil action or take administrative action against WPC or new WPSC pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, or for response costs under Section 107 of CERCLA, 42 U.S.C. § 9607, relating to the Breslube-Penn and Four County Landfill Sites ("the Sites"). This covenant not to sue is conditioned upon the complete and satisfactory performance by WPC of its obligations under this Settlement Agreement. This covenant not to sue extends only to WPC and new WPSC and does not extend to any other person.

b. The covenant not to sue set forth in the previous sub-paragraph does not pertain to any matters other than those expressly specified in the previous sub-paragraph. The United States reserves, and this Settlement Agreement is without prejudice to, all rights against WPC and new WPSC with respect to all other matters, and specifically with respect to: any criminal

liability, any liability for damages for injury to, destruction of, or loss of natural resources at or relating to the Sites; claims based on a failure by WPC or new WPSC to meet a requirement of this Settlement Agreement; and claims for any sites other than the Sites. WPC and new WPSC reserve the right to assert that the discharge granted to them under the Plan and 11 U.S.C. § 1141 applies to the fullest extent of the law.

c. WPC and new WPSC covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Sites, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund, any claims for contribution against the United States, its departments, agencies or instrumentalities, and any claims arising out of response activities at the Sites. These covenants not to sue shall not apply in the event the United States brings a cause of action seeking damages for injury to, destruction of, or loss of natural resources at or relating to the Sites, but only to the extent that the claims of WPC or new WPSC arise from the same damages, destruction or loss. These covenants not to sue likewise shall not apply in the event that the United States brings a claim for a site other than the Sites, but only to the extent that the claims of WPC or new WPSC arise from the claim for that site. Nothing in this Settlement Agreement shall be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

6. Contribution Protection With regard to claims for contribution against WPC or new WPSC for matters addressed in this Settlement Agreement, WPC and new WPSC are entitled to such protection from contribution actions or claims as is provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2). The "matters addressed" in this Settlement Agreement include all CERCLA response costs incurred or to be incurred in the future by or on behalf of US EPA or any other responsible party in connection with the Sites. To the extent such contribution claims include claims for oversight costs, it is the intent of this Agreement that such costs be included within the meaning of "response costs."

7. Payment of Claim Payment of the EPA Allowed Claim shall be made in the manner stated in the Plan, subject to such instructions not inconsistent with the Plan as the United

States may provide to new WPSC after the Settlement Agreement is approved by the Bankruptcy Court. Cash paid on account of the EPA Allowed Claim shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing CERCLA Number 90-7-1-06977/2 and U.S.A.O. file no. _____, in accordance with the instructions provided by the United States to new WPSC after approval of this Settlement Agreement by the Bankruptcy Court. Any EFTs received at the U.S. DOJ lockbox bank after 11:00 A.M. (Eastern Time) will be credited on the next business day. Any interest provided for under the Plan shall be included in the distribution(s) made on account of the EPA Allowed Claim. Copies of all distributions and related correspondence shall be sent to the U.S. Department of Justice, Environmental Enforcement Section, P.O. Box 7611, Washington, D.C., and shall refer to DOJ File No. 90-7-1-06977/2.

8. Miscellaneous.

- a. This Settlement Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns, including, but not limited to, any successor trustee or receiver.
- b. Nothing in this Settlement Agreement shall create any rights in favor of any other person or entity and the parties reserve all rights which they may have against other parties or entities.
- c. This Settlement Agreement was negotiated in good faith; the settlement described herein will avoid prolonged, complicated litigation between the parties and is fair, reasonable and in the public interest.
- d. This Settlement Agreement supersedes any prior or contemporaneous written or oral agreements, undertakings, promises, warranties or covenants and constitutes the final agreement of the parties regarding all matters set forth herein.
- e. This Settlement Agreement may be amended only by a written memorandum signed by all parties hereto.

f. The parties hereto agree to execute any such and further documentation as may be reasonably required to carry out each and every provision of this Settlement Agreement.

g. The parties hereto agree and understand that the intent and purpose of this compromise and settlement of disputes is for the final and complete resolution of the claims as specified above.

h. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document.

i. The Debtors waive any claims which they may have against the Hazardous Substances Superfund, established by 26 U.S.C. § 9507, respecting the Breslube-Penn and Four County Landfill Sites.

j. The undersigned counsel for Debtors represent that they are authorized, subject to the Bankruptcy Court's approval of this Settlement Agreement, to enter into the terms and conditions of this Settlement Agreement and, by executing the Agreement, legally to bind WPC to this Settlement Agreement.

k. The undersigned trial counsel for the United States and the Assistant Attorney General for the Environment and Natural Resources Division ("AAG") certify that they are authorized to execute and enter into this Settlement Agreement and, in the case of the AAG, legally to bind the United States to this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed as of _____, 2003.

WHEELING-PITTSBURGH CORPORATION

By: _____

Its: VICE PRESIDENT

FOR THE UNITED STATES OF AMERICA

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